

BEFORE THE
Federal Communications Commission

WASHINGTON, D. C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

AMENDMENT OF PART 1 OF
THE COMMISSION'S RULES,
PERTAINING TO THE SCHEDULE
OF ANNUAL REGULATORY FEES
FOR MASS MEDIA SERVICES

MD Docket No. 96-186

To: The Commission

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REPLY COMMENTS OF MONTANA BROADCASTERS ASSOCIATION

The Montana Broadcasters Association ("MBA") herein submits its Reply Comments with respect to the Notice of Inquiry in the above-captioned proceeding, FCC 96-422, released November 6, 1996 (61 Fed. Reg. 59397 (November 22, 1996)) ("NOI").

Beside MBA, the Arkansas Broadcasters Association ("Arkansas"), the Maine Association of Broadcasters ("Maine"), and the National Association of Broadcasters ("NAB") each filed comments. Arkansas and Maine both strongly endorsed adoption of a radio regulatory fee structure that will differentiate between markets, as well as technical facilities. Arkansas specifically endorsed adoption of the fee structure MBA originally proposed in its Comments filed in MM Docket No. 96-84. See NOI at ¶5. NAB, recognizing the inequity

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of the present fee structure, presented an alternative methodology to take cognizance of market size. NAB also presented a tentative fee schedule.

NAB's Methodology

NAB has calculated the population within the 1.0 mV/m contour of each licensed commercial radio station in the country. Using that database, NAB had divided stations within each service (AM and FM) into one of six categories on the basis of the number of persons within each station's 1.0 mV/m contour. The population ranges used for AM stations are different than those for FM stations. With respect to each service, approximately 20% of the stations are in each of the four smaller population categories. Roughly 10% of the stations are in each of the two top levels.

Under NAB's proposal, stations also are divided into the six technical facilities groupings presently used: (1) AM Class A, (2) AM Class B, (3) AM Class C, (4) AM Class D, (5) FM Classes A, B1 and C3, and (6) FM Classes C, C1, C2 and B.

Using this framework, NAB has proposed the fee structure found in Attachment A of its Comments filed December 20, 1996. Under NAB's proposed fee schedule, stations in smaller markets would pay somewhat lower fees, while stations in large markets would pay somewhat higher fees. Roughly speaking, FM stations with a 1.0 mV/m contour population of 100,000 or less would have a lower regulatory fee than in FY 1996. FM stations serving

more than 100,000 persons would have higher regulatory fees. (For example, the regulatory fee for each FM station in Billings, Montana (Arbitron Radio Market 244¹) would be \$1,350 under NAB's proposal compared to the \$1,250 assessed by the Commission in FY 1996.) Class A and B AM stations with fewer than 1.5 million persons within their 1 mV/m contour would pay a lower fee under the NAB schedule than in FY 1996. Class C and D AM stations with a 1.0 mV/m contour population of 500,000 or less also would pay a lower fee.

While NAB is to be congratulated for its support of the move toward a more equitable regulatory fee methodology and for producing the comprehensive database submitted with its Comments, NAB's proposed fee schedule still puts a disproportionately high burden on small market stations. Small market stations would pay substantially more in proportion to the population they serve than would large market stations. The chart below illustrates the point. Using the mid-point of each population range in NAB's schedule, the regulatory fee per thousand persons within the 1.0 mV/m contour is calculated. The "regulatory fee per thousand" in smaller markets is, in some circumstances, twenty times that in larger markets.

¹ Broadcasting & Cable Yearbook 1996, B-668.

NAB PROPOSED FEE SCHEDULE
"REGULATORY FEE PER THOUSAND PERSONS"
AT THE MID-POINT OF EACH POPULATION CATEGORY

AM Classes

Population Category (mid-point in parenthesis)	A	B	C	D
< = 100,000 (50,000)	\$6.50	\$5.20	\$2.50	\$3.30
100,001 - 250,000 (175,000)	\$2.14	\$1.86	\$1.00	\$1.29
250,001 - 500,000 (375,000)	\$1.53	\$1.20	\$.66	\$.86
500,001 - 1,500,000 (1,000,000)	\$.98	\$.65	\$.33	\$.43
1,500,001 - 3,000,000 (2,250,000)	\$.67	\$.42	\$.20	\$.26
> 3,000,000 (4,500,000) ²	\$.40	\$.29	\$.14	\$.17

FM Classes

Population Category (mid-point in parentheses)	A, B1, C3	B, C, C1, C2
< = 40,000 (20,000)	\$15.00	\$22.50
40,001 - 100,000 (70,000)	\$6.43	\$13.21
100,001 - 250,000 (175,000)	\$5.29	\$7.71
250,001 - 750,000 (500,000)	\$2.30	\$3.50
750,001 - 1,750,000 (1,250,000)	\$1.04	\$1.60
> 1,750,000 (2,625,000) ²	\$.63	\$1.05

² For the top AM population category, 4,500,000 was used to calculate the "regulatory fee per thousand"; for the top FM population category, 2,625,000 was used.

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If the basic methodology proposed by NAB is adopted by the Commission, MBA believes that, within each technical facilities grouping, the regulatory fee per thousand should not be significantly higher for smaller market stations. The chart below reflects a more equitable fee structure.

**MBA ALTERNATIVE FEE SCHEDULE
(Based on NAB Population Methodology)**

AM Stations

Population Served	A	B	C	D
< = 100,000	\$65	\$35	\$15	\$20
100,001 - 250,000	\$220	\$125	\$50	\$60
250,001 - 500,000	\$405	\$230	\$100	\$115
500,001 - 1,500,000	\$1250	\$700	\$300	\$350
1,500,001 - 3,000,000	\$2750	\$1575	\$675	\$790
> 3,000,000	\$5000	\$3150	\$1350	\$1575

FM Stations

Population Served	All Classes
< = 40,000	\$40
40,001 - 100,000	\$140
100,001 - 250,000	\$350
250,001 - 750,000	\$1000
750,001 - 1,750,000	\$2500
> 1,750,000	\$5000

As the above chart indicates, MBA suggests that if NAB's methodology is adopted, all FM stations be placed in one technical facilities group. Under NAB's population-based methodology, the distinction between higher power FM stations (Classes B, C, C1, C2) and lower power FM stations (Classes A, B1 and C3) is no longer important. The key factor is how many people are served, not a station's ERP. MBA, however, does not propose to lump all classes of AM stations into a single technical facilities group. The distinctions between the nature of the technical service provided by each AM station class justifies fee differentials. With respect to the four classes of AM stations, MBA's alternative fee schedule uses roughly the same ratios as adopted by Congress for FY 1994.

The above fee schedule will result in fees in the largest markets substantially below those projected in Paragraph 6 of the NOI. Assuming, as does NAB, that roughly 20% of all commercial stations in each service are in each of the four smaller population categories, with 10% in each of the two largest categories, MBA has calculated that the aggregate fees using its alternative schedule would be approximately \$6,642,000, compared to the \$6,472,650 that the Commission has projected it will collect from licensed commercial radio stations in FY 1996. See Report and Order in MD Docket No. 96-84, Appendix C.

MBA's Methodology

In its Comments, NAB criticizes the data upon which MBA's tentative fee schedule was based. MBA acknowledges that further refinement of the "station count" data is necessary.

The problem is not insurmountable. MBA has received from DataWorld tentative revised station counts for each regulatory fee grouping under MBA's proposal. The revised data, below, makes use of Arbitron Radio Metro Markets.³

**DATAWORLD TENTATIVE COUNT OF
COMMERCIAL RADIO STATIONS IN EACH MARKET
TIER AND TECHNICAL FACILITIES GROUPING**

Market Size	AM Class A	AM Class B	AM Class C	AM Class D	FM Group I Classes C, C1, C2, B	FM Group II Classes A, B1, C3
1-25	14	62	14	32	160	47
26-50	9	57	14	33	198	62
51-100	9	137	30	65	300	153
Remaining	45	1249	959	2178	1975	2507

DataWorld's revised station counts are subject to further verification. Using (1) DataWorld's revised station counts, (2) a \$125 base fee (i.e., the fee for a Class C AM station in a "Remaining Market") and (3) the ratios proposed in Figure 3 of MBA's NOI Comments the projected revenue would be slightly higher than what the Commission has projected it will collect in FY 1996. See Attachment 1 hereto.

³ MBA always intended to use radio markets. The previous inadvertent reference to ADIs was the product of a miscommunication between counsel and DataWorld.

CONCLUSION

MBA urges adoption of either (a) the methodology MBA proposed in its NOI Comments, or (b) the methodology NAB has proposed, but with the alternative fee schedule MBA sets forth above. Use of either will result in a significantly more equitable distribution of the regulatory fee burden among commercial radio stations. We believe that the fee schedules MBA proposes are superior to the fee schedule offered by NAB. Our primary concern with the NAB's proposal is that it doesn't go far enough to provide relief for small market broadcasters. But, if given the choice between NAB's proposal or no relief for small markets at all, we would, of course, prefer that the Commission at least provide some relief for small market broadcasters.

MONTANA BROADCASTERS ASSOCIATION

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January 6, 1997

Estimated Regulatory Fee Revenue Using
(1) Ratios in Figure 3 of MBA's NOI Comments
(2) Revised DataWorld Station Counts,
and (3) a Base Fee of \$125

FEE CATEGORY	ESTIMATED PAYMENT UNITS¹	PROPOSED FEE²	ESTIMATED REVENUE
AM Class A Markets 1-25	14	\$6,430	\$90,020
AM Class A Markets 26-50	9	\$3,750	\$33,750
AM Class A Markets 51-100	9	\$2,000	\$18,000
AM Class A Remaining Markets	45	\$565	\$24,425
AM Class B Markets 1-25	62	\$3,575	\$221,650
AM Class B Markets 26-50	57	\$2,075	\$118,275
AM Class B Markets 51-100	137	\$1,100	\$150,700
AM Class B Remaining Markets	1,249	\$315	\$393,435
AM Class C Markets 1-25	14	\$1,425	\$19,950
AM Class C Markets 26-50	14	\$830	\$11,620
AM Class C Markets 51-100	30	\$445	\$13,350
AM Class C Remaining Markets	950	\$125	\$118,750

¹ Derived from DataWorld Inc.'s MediaXpert™ Database.

² Pursuant to 47 U.S.C. §159(b)(2), fees under \$1,000 are rounded to the nearest \$5.00 and fees of \$1,000 or more are rounded to the nearest \$25.00.

FEE CATEGORY	ESTIMATED PAYMENT UNITS	PROPOSED FEE	ESTIMATED REVENUE
AM Class D Markets 1-25	32	\$1,775	\$56,800
AM Class D Markets 26-50	33	\$1,050	\$34,650
AM Class D Markets 51-100	65	\$555	\$36,075
AM Class D Remaining Markets	2,178	\$155	\$337,590
FM Classes C, C1, C2, B Markets 1-25	160	\$6,430	\$1,028,800
FM Classes C, C1, C2, B Markets 26-50	198	\$3,750	\$742,500
FM Classes C, C1, C2, B Markets 51-100	300	\$2,000	\$600,000
FM Classes C, C1, C2, B Remaining Markets	1,975	\$565	\$1,115,875
FM Classes A, B1, C3 Markets 1-25	47	\$4,275	\$200,925
FM Classes A, B1, C3 Markets 26-50	62	\$2,500	\$155,000
FM Classes A, B1, C2 Markets 51-100	153	\$1,325	\$202,725
FM Classes A, B1, C2 Remaining Markets	2,507	\$375	\$940,125

Total Estimated Revenue: \$6,665,990

**Total Estimated Revenue for Licensed AM/FM Stations per
Appendix C of the Report and Order in MD Docket No. 96-84³:**

\$6,472,650

³ The fees and revenue with respect to construction permits are not included in the above chart.

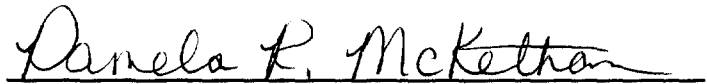
CERTIFICATE OF SERVICE

I, Pamela R. McKethan, hereby certify that on this 6th day of January, 1996, copies of the foregoing **REPLY COMMENTS OF MONTANA BROADCASTERS ASSOCIATION** were hand-delivered or mailed to the following:

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